

Remarks

This paper responds to the Office action of January 31, 2006. The present application includes claims 16-91, all of which were rejected by the Examiner. By this Amendment, claims 16-17, 19-24, 30-40, 43-81, and 83-91 have been amended. The foregoing amendments to the claims are supported by the same matter supporting the same claims as originally filed. More specifically, the amendment to claim 47 is supported by Col. 11, Lines 22-28 of issued U.S. Pat. No. 6,370,564. The amendment to claim 67 is supported by claims 7-8 of the issued patent. The amendment to claim 87 is supported by Col. 1, Lines 16-39 of the issued patent. The amendment to claim 88 is supported by claim 9 of the issued patent. The amendment to claim 89 is supported by claim 11 of the issued patent. The other amendments to the claims are believed to be supported by the original patent. The Examiner is requested to reconsider the application.

Claims 27-28, 33-42, and 48-91 have been rejected pursuant to 35 U.S.C. Sec. 112, first paragraph. The Examiner's contentions are set forth in paragraphs 1-7 of the Office Action. The rejection is respectfully traversed and reconsideration is respectfully requested in view of the enclosed declaration of Professor Lee A. Hollaar.

Claim 43 has been rejected pursuant to 35 U.S.C. Sec. 112, second paragraph. The Examiner contends that there is insufficient antecedent basis, as is more particularly set out in the Office Action at paragraphs 8-9. In view of the foregoing amendment, the rejection is believed to be moot.

Claims 1-47 have been rejected pursuant to the judicially created doctrine of non-statutory double patenting, with contentions more particularly set out in the Office Action at paragraphs 10-11. In view of the enclosed Terminal Disclaimer, the rejection and contentions are believed to be moot.

Claims 48-91 have been rejected pursuant to 35 USC Sec. 102(e). The Examiner's contentions are set forth in the Office Action in paragraphs 12-18.

In response, the rejection and contentions are respectfully traversed. The rejection relies on Freeman's disclosure of a computer program running on a computer, but Freeman does not mention the absence of a competing program or mention a dedicated processor. Disclosure of one thing is not a disclosure of the absence of another.

For example, Freeman does not mention that the computer has a power cord to plug into an outlet or other power supply, but this is not a disclosure of the absence of the power cord. Freeman's disclosure is explicitly inclusive.

Pursuant to Sec. 102, it is improper to require the Applicant to prove what was not running on the Freeman computer, and the rejection is improper for seeking to shift the PTO's statutory burden to the Applicant. If the rejection is maintained, Applicant respectfully requests a more detailed explanation of the rejection, pursuant to 35 U.S.C. Sec. 132, "the reasons for such rejection... together with such information as may be useful in judging the propriety of continuing prosecution...". In particular, the Examiner is respectfully requested to explain how the existence of the Freeman program teaches the absence of a competing program or a dedicated processor.

In sum, the PTO has not met its burden to prove that Freeman discloses every claim element, e.g., a dedicated processor and, and thus the evidence is insufficient to withhold a patent pursuant to Sec. 102.


On the basis of the above information, the Applicant's Attorney respectfully submits that the application is in condition for allowance, as the rejections of record have been overcome.

Conclusion

The Commissioner is hereby authorized to charge any additional fees which are presently required, or credit any overpayment, to Deposit Account No. 13-0017.

Respectfully submitted,

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